IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 29TH NOVEMBER 2006 / 8TH AGRAHAYANA 1928

CRL.A.No. 552 of 1999()

CC.568/1996 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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APPELLANT:

PUTHEDATH METALS,A PARTNERSHIP FIRM HAVING ITS OFFICE AT XL/5209, VITTAPPA PRABHU ROAD, ERNAKULAM, KOCHI-35, REP. BY ITS PARTNER, P.A.AMEER, SON OF P.K.ABDUL KHADER, PUTHEDATH AMER MANZIL, VAZHAKKALA, KAKKANADU P.O., KOCHI – 30.

BY ADV. SRI.K.C.CHARLES.
SRI.C.K.ARAVINDAKSHA MENON

RESPONDENTS:

1.P.M.VINOD,POYYAKULATH HOUSE, VATTEKUNNAM, EDAPPALLY NORTH, ERNAKULAM.

2.STATE OF KERALA, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 29/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY, J.

Criminal Appeal.No.552 OF 1999 ()

Dated this the 29th day of November, 2006

JUDGMENT

This appeal is filed by the complainant against the acquittal of the accused under Section 256(1) of the Code of Criminal Procedure. Though 1st respondent was granted bail on 17.7.1998, subsequently he was absent and his bail was cancelled. Even though on several occasions case was posted and complainant was present, accused was not present and steps were pending for production of the accused. Before the production of the accused accused was acquitted. Trial court should not have acquitted the accused under Section 256 (1) of Cr.P.C. merely because complainant was absent on one day of posting. Considering the facts and circumstances of the case, I am of the opinion that one more opportunity should be given and hence the impugned order is set aside and I remand the matter to the Trial court for continuing the proceedings. Appellant should be present before the Trial court on 9.1.2007. Fresh steps should be issued for production of the accused.

If any advocate had entered appearance for the accused, date of posting also should be intimated to him as notice issued from this Court was evaded by accused. Hence appeal is allowed by way of remand.

J.B.KOSHY, JUDGE

prp

J.B.KOSHY

Criminal.Appeal.552 OF 1999

JUDGMENT

29th November, 2006